

DHMH POLICY

<http://dhmh.maryland.gov/SitePages/op02.aspx>

OFFICE OF THE SECRETARY - Central Services Division

DHMH POLICY 01.05.05
Effective February 28, 2014

SPACE RENTAL POLICY (LEASES)

I. EXECUTIVE SUMMARY

The laws and regulations of Maryland State government assign the responsibility for procurement of rental property for most State agencies to the Department of General Services. This policy establishes how DHMH units may obtain rental space through the DGS Office of Real Estate.

The authorities for the rental / lease functions are specified and the roles and responsibilities of the units and individuals are defined. The Chief, Central Services Division (CSD), is the DHMH Secretary's representative in all lease matters. The DHMH Lease Coordinator is designated as the liaison between DHMH units and the DGS Lease Management and Procurement Division. Supplemental to this policy, DHMH Procedure 02.12.07.P1 provides specific direction to DHMH employees for the space leasing process.

II. BACKGROUND

This policy version supersedes and recodifies DHMH Space Rental Policy (Leases) 02.12.07 issued June 30, 2006. This version makes the following routine updates: 1) Removes references to the Office of Procurement and Support Services (OPASS) because the Central Services Division now reports directly to the Office of the Secretary; 2) Recodifies the policy to reflect that it is now under the Office of the Secretary; and 3) Updates links and form names.

III. POLICY STATEMENTS

A. DEFINITIONS

1. The definitions listed in the DGS *Lease Enforcement and Enforcement Guidelines*, are hereby incorporated by reference as part of this policy.
2. “**Authorized requesting official (ARO)**” means a designated manager at the Administration level who is authorized to request rental space and approve leases. The director of an administration, the chief executive officer or chief administrative (operations) officer of a facility, the business manager of a program, and the health officer of a local health department are designated to be “**authorized requesting officials**” for the purpose of this policy.

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3. “**Requesting unit**” means an administration, facility, or equivalent level unit of DHMH that requires additional space for one or more of its functions to operate effectively and efficiently. The “**authorized requesting official**” is to coordinate space needs and lease approvals with the relevant component units.

B. APPLICABILITY

This policy applies to all DHMH administrations, programs, offices, boards, commissions, facilities, regional offices, and laboratories. Local Health Departments may use the State procurement process to obtain rental space, in which case this policy applies. Availability of funds for LHD space rental must be certified to the DHMH Lease Coordinator by the LHD’s funding source. Alternatively, if approved by the local government, rental space for LHD’s may be obtained through the local government procurement system, in which case this policy does not apply.

C. AUTHORITY

1. The Annotated Code of Maryland, State Finance and Procurement Article, Division II, authorizes the Secretary of DGS as responsible for purchasing and leasing real property for most State Government agencies.

2. COMAR 21.02.05, Leasing Real Property, requires that leasing of real property shall be in accordance with *the Lease Compliance and Enforcement Guidelines* issued by DGS which identifies the responsibilities of using agencies and the procedures of the lease acquisition process.
<http://www.dgs.maryland.gov/RealEstate/LeaseComp&EnforceGuide.pdf>

3. COMAR 21.02.05.01 authorizes the Secretary, DGS, to manage the leasing by the State of all real property to which the State does not have title.
<http://www.dsd.state.md.us/comar/getfile.aspx?file=21.02.05.01.htm> These responsibilities include:

- a. selection of locations;
- b. negotiating rental rates;
- c. finalizing lease agreements;
- d. publishing standards and criteria for office space use;
- e. assigning leased space.

4. The Secretary, DGS has delegated authority to the Lease Management and Procurement Division (LMPD) for bidding and negotiating leases for rental space requested by most State units. The LMPD, using information supplied by the “requesting unit”, advertises for or otherwise secures bids for the rental space requested.

5. The obtaining of leased space by a DHMH unit on an emergency basis still requires prior authorization by the Secretary, DGS or designee.

6. The Secretary, DHMH, has designated the Chief, Central Services Division (CSD) as the Department’s representative in all matters dealing with the leasing or renting of space.

7. The Chief, CSD shall designate a DHMH Lease Coordinator to be the sole liaison and coordinator for space rental between DHMH components and the Lease Management and Procurement Division of DGS.

D. ROLES AND RESPONSIBILITIES

1. All space rental and leasing transactions are to be performed in accordance with the DGS *Lease Enforcement and Compliance Guidelines*, this policy, and the accompanying procedure, DHMH 02.12.07.P1.

2. When additional space for a unit's operations is needed and must be rented, the unit's "authorized requesting official" shall sign Leased Location Staff Assessment Form to the DHMH Lease Coordinator in Central Services Division. <http://dhmh.maryland.gov/docs/FTE%20Audit%20Worksheet%20for%20Space%20Request.pdf>

3. The DHMH Lease Coordinator shall be the liaison between the units of the Department who are requesting rental space and DGS. The Lease Coordinator shall also monitor the flow of paperwork within the Department and to DGS, and is the custodian of the official files pertaining to space rental.

4. The DHMH Lease Coordinator shall forward approved request forms for rental space from authorized requesting officials to DGS's Lease Management and Procurement Division, and shall be responsible for tracking and coordinating the flow of subsequent paperwork.

5. The initiating unit's "authorized requesting official" must approve all leases prior to signing by Secretary, DHMH or designee.

6. Prior to the signing of the lease, the Director, Financial Management Administration (FMA) or designee shall certify the availability of funds. In the case of leases for Local Health Departments, the relevant funding source will certify the availability of funds.

7. The Secretary, DHMH or designee shall sign all leases for the Department.

8. Leased properties may be inspected by DGS to ensure that landlords and agencies are complying with lease terms. DGS may enforce the terms of the lease should resolution at the facility level be unsuccessful.

E. REQUIREMENTS

1. Requests for new rental space or for renewals of currently occupied rental space shall be submitted on the Leased Location Staff Assessment Form and signed by the unit's "authorized requesting official". <http://dhmh.maryland.gov/docs/FTE%20Audit%20Worksheet%20for%20Space%20Request.pdf>

2. When offers are received, LMPD will transmit a copy of each offer to the DHMH Lease Coordinator, who, in turn, shall transmit a copy of the offer to the authorized requesting official. The authorized requesting official with the requesting

unit shall rank each offer and provide the rankings to LMPD through the Lease Coordinator. DGS will then negotiate with all offerors. After receiving each bidder's "best and final offer," staff of LMPD will notify the Lease Coordinator upon an evaluation of the award. LMPD, DGS, has the exclusive authority to conduct negotiations.

3. The authorized requesting official in conjunction with the using unit shall review the lease prior to signing by the Secretary, DHMH or designee, and either accept or reject the lease as written.
4. The following information shall be included on Request for Space forms:
 - a. The geographic boundaries in which the requested space may be located. (The geographic boundaries should be as large as possible so that competitive bidding may be maximized.)
 - b. Any special needs that may be required, e.g., close to public transportation, close to a particular court house or other building;
 - c. A brief but thorough description of the intended use of the space.
 - d. A thorough description of any special conditions or requirements that may be needed.
 - e. The square footage required.
 - f. The desired length of the lease.
 - g. A statement as to availability of funds.
5. After a lease is drawn up and signed by the lessor, the lease is returned to DGS to obtain a statement of legal sufficiency from the DGS Office of the Attorney General. The lease is not to be considered operational by DHMH staff until approved for "legal sufficiency" by a DGS Assistant Attorney General and approved by the Board of Public Works. .
6. DGS is responsible for having the lease placed before the Board of Public Works for approval. The Board of Public Works, in turn, will have the approved lease and any approval letters sent to the lessor and the Chief, CSD who shall distribute them accordingly.
7. Officials requesting either new or renewal space via the rental-leasing process shall request space approximately fifteen (15) months ahead of the desired occupancy date if a new lease, or the mandated renewal date as stated in the lease. It is the responsibility of the using unit to initiate a request for needed rental space in a timely manner in accordance with this policy. If an expedited processing of the Request for Space Form is needed and justified, contact the Chief, CSD, for assistance.

F. RESTRICTIONS

1. All DHMH contact with DGS regarding needed rental space shall be through the Chief, CSD or the DHMH Lease Coordinator. Other DHMH employees may **NOT** contact DGS Lease Management and Procurement Division (LMPD) directly regarding needed rental space
2. Only staff of the LMPD are authorized to contact bidders during the bidding process. Neither employees of the requesting unit nor the DHMH Lease

Coordinator shall contact any bidder, including the owner of an existing property under lease, during the bidding process.

IV. REFERENCES

- **Annotated Code of Maryland, State Finance and Procurement Article, §12-107b(3).**
http://mgaleg.maryland.gov/2013RS/Statute_Web/gsf/12-107.pdf
- **COMAR 21.02.05.01, State Procurement Regulations.**
<http://www.dsd.state.md.us/comar/getfile.aspx?file=21.02.05.01.htm>
- **Lease Compliance & Enforcement Guidelines, DGS**
<http://www.dgs.maryland.gov/RealEstate/LeaseComp&EnforceGuide.pdf>
- **DGS Request for Space**
<http://dhmh.maryland.gov/docs/FTE%20Audit%20Worksheet%20for%20Space%20Request.pdf>

APPROVED:



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Secretary

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